

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

08 - 20260

Case No.

18 U.S.C. § 1347

18 U.S.C. § 2

18 U.S.C. § 982

UNITED STATES OF AMERICA

vs.

MICHELL GONZALEZ BENITEZ,

Defendant.

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

The Medicare Program

1. The Medicare Program ("Medicare") is a federally funded program that provides free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare are governed by federal statutes and regulations. The United States Department of Health and Human Services ("HHS"), through its agency, the Centers for Medicare and Medicaid Services ("CMS"), oversees and administers Medicare. Individuals who receive benefits under Medicare are commonly referred to as Medicare "beneficiaries."

2. Medicare is a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

3. Part B of the Medicare Program paid for a portion of the cost of certain necessary medical services and medications that were provided and ordered by physicians, clinics, and other qualified health care providers. Medicare Part B was administered in Florida by First Coast Service Options, a company that contracted with CMS to receive, adjudicate, process, and pay Medicare Part B claims.

4. Physicians, clinics, and other health care providers that provide services to Medicare beneficiaries were able to apply for and obtain a "provider number." A health care provider who has been issued a Medicare provider number is able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries. A Medicare claim was required to set forth, among other things, the beneficiary's name and Medicare identification number of the physician or other health care professional who had ordered the services.

Medicare Billing and Payment Procedures

5. A Part B provider that sought to participate in Medicare Part B and bill Medicare for the cost of clinical related benefits, items, and services, was required to apply for and receive a provider number. The provider number allowed a Part B provider to submit bills, known as "claims," to Medicare to obtain reimbursement for the cost of outpatient related health care benefits, items, and services that a clinic supplied or provided to beneficiaries.

6. To receive payment from Medicare, a clinic, using its provider number, would submit a health insurance claim form, known as a CMS-1500. Medicare permitted clinics to submit a CMS-1500 electronically or by way of a paper claim form. Each claim form required certain important information, including: (a) the Medicare beneficiary's name and identification number; (b) the identification number of the doctor or other qualified health care provider who ordered the health

care benefit, item, or service that was the subject of the claim; (c) the health care benefit, item, or service that was provided or supplied to the beneficiary; (d) the billing codes for the benefit, item, or service; and (e) the date upon which the benefit, item, or service was provided or supplied to the beneficiary.

7. Medicare, through First Coast Service Options, generally would pay a substantial portion of the cost of the clinical related health care benefits, items, and services that were medically necessary and ordered by licensed doctors or other qualified health care providers.

8. Payments under Medicare Part B were often made directly to the clinic rather than to the patient/beneficiary. For this to occur, the beneficiary would assign the right of payment to the Part B provider or other health care providers. Once such an assignment took place, the clinic would assume the responsibility for submitting claims to, and receiving payments from, Medicare.

9. Infusion clinics provide injection treatments, *i.e.*, treatments involving the insertion of a syringe into the patient's arm, and intravenous infusion treatments, *i.e.*, treatments involving the insertion of a needle into a patient's vein, in order to administer specialized medications typically prescribed for patients with HIV/AIDS.

The Cleveland Clinic

10. The Cleveland Clinic was a medical clinic with locations in Weston and Naples, Florida, and elsewhere. As such, the Cleveland Clinic was a health care provider. On or about May 1, 2006, Health Management Associates ("HMA") purchased the Cleveland Clinic's location in Naples, Florida, and continued to run the location as a medical clinic. HMA was a health care provider.

11. A Cleveland Clinic employee who was a front desk office coordinator at the Cleveland Clinic in Weston, Florida, fraudulently obtained Medicare information and other identifying information pertaining to 1500 Medicare patients of HMA (the former Cleveland Clinic in Naples, Florida). The former Cleveland Clinic employee received \$5 to \$10 for each patient's Medicare number and other identifying information. The fraudulently obtained Medicare numbers and other identifying information were utilized by numerous medical providers in the Southern District of Florida, including in Miami Dade-County, to fraudulently bill Medicare for medical services not rendered and medical equipment not supplied.

Premium Medical Care, Inc.

12. Premium Medical Care, Inc., (PREMIUM) was a Florida corporation, incorporated on or about June 28, 2005, that purportedly did business in Miami-Dade County. PREMIUM was an infusion clinic purportedly providing medical services and care to Medicare beneficiaries. PREMIUM was originally located at 4815 NW 79th Avenue, Suite 3, Miami Lakes, Florida 33166.

13. Defendant **MICHELL GONZALEZ BENITEZ**, was the owner of record of PREMIUM beginning on or about July 14, 2006 and continuing through in or around October 2006. **GONZALEZ BENITEZ** opened up and maintained a corporate bank account for PREMIUM at Bank of America.

14. On or about October 21, 2005, PREMIUM obtained Medicare Services Provider Number K8650, authorizing the clinic to submit reimbursement claims to Medicare for medical services and benefits provided. PREMIUM submitted claims to Medicare using the Medicare numbers and other identifying information fraudulently obtained from HMA (the former Cleveland

Clinic in Naples, Florida), resulting in PREMIUM submitting claims to Medicare in the amount of \$1,291,267.87. As a result of those claims, Medicare paid PREMIUM \$393,843.35.

COUNTS 1-10
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

1. Paragraphs 1 through 14 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around May 2006, and continuing through in or around October 2006, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

MICHELL GONZALEZ BENITEZ,

in connection with the delivery of and payment for health care benefits and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud Medicare, a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, Medicare, that is, the defendant, through PREMIUM, submitted false and fraudulent claims to Medicare, seeking reimbursement for the cost of various medical services.

Purpose of the Scheme and Artifice

3. It was the purpose of the scheme and artifice for the defendant to unlawfully enrich himself and others by, among other things: (a) fraudulently obtaining Medicare patient information; (b) submitting or causing the submission of false and fraudulent claims to Medicare; (c) concealing the submission of false and fraudulent Medicare claims; and (d) diverting fraud proceeds for the personal use and benefit of himself and others.

Manner and Means of the Scheme and Artifice

The manner and means by which the defendant sought to accomplish the purpose of the scheme and artifice included, among others, the following:

4. **MICHELL GONZALEZ BENITEZ** fraudulently obtained the names, the Medicare numbers and other patient identifying information of Medicare beneficiaries who were patients of HMA (the former Cleveland Clinic in Naples, Florida).

5. **MICHELL GONZALEZ BENITEZ** submitted and caused to be submitted by PREMIUM, using the fraudulently obtained patient information, claims to Medicare for injection treatments and intravenous infusion treatments and services, such claims falsely and fraudulently representing that these treatments and services were medically necessary and had been provided to the Medicare beneficiaries.

6. As a result of the submission of such false and fraudulent claims, **MICHELL GONZALEZ BENITEZ** caused Medicare to make payments to PREMIUM that were deposited into the PREMIUM's corporate bank account.

7. **MICHELL GONZALEZ BENITEZ** transferred and disbursed, and caused the transfer and disbursement of, monies from PREMIUM's corporate bank account to himself and others.

Acts in Execution or Attempted Execution of the Scheme and Artifice

8. On or about the dates set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, **MICHELL GONZALEZ BENITEZ**, in connection with the delivery of and payment for health care benefits and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care

benefit program affecting commerce, that is Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of said health care benefit program:

| Count | Medicare Beneficiary | Approx. Date of Service | Approx. Date of Submission of Claim | Medicare Claim Number | Item Claimed; Approx. Amount Claimed |
|-------|----------------------|-------------------------|-------------------------------------|-----------------------|---|
| 1 | G.D. | 6/19/06 | 8/18/06 | 1006230739380 | Pulmonary/ Bronchospasm evaluation (94070); \$199 |
| 2 | J.P. | 6/22/06 | 8/18/06 | 1006230739090 | Echocardiography (93307); \$217 |
| 3 | D.Q. | 6/22/06 | 8/18/06 | 1006230740350 | Pulmonary Stress Test (94620); \$128 |
| 4 | E.S. | 6/26/06 | 9/5/06 | 1106248046870 | Breath Hydrogen Test (91065); \$641 |
| 5 | W.M. | 6/27/06 | 9/5/06 | 1106248047430 | Breath Hydrogen Test (91065); \$641 |
| 6 | N.M. | 6/30/06 | 9/5/06 | 1106248047610 | Vestibular Function Test (92547); \$339 |
| 7 | S.G. | 6/30/06 | 9/5/06 | 1106248049100 | Vestibular Function Test (92547); \$339 |
| 8 | M.K. | 6/30/06 | 9/5/06 | 1106248048170 | Breath Hydrogen Test (91065); \$641 |
| 9 | P.T.K. | 7/3/06 | 9/5/06 | 1106248044960 | Pulmonary Stress Test (94621); \$137 |

| Count | Medicare Beneficiary | Approx. Date of Service | Approx. Date of Submission of Claim | Medicare Claim Number | Item Claimed; Approx. Amount Claimed |
|-------|----------------------|-------------------------|-------------------------------------|-----------------------|--------------------------------------|
| 10 | S.T. | 7/7/06 | 9/27/06 | 1006270645980 | Breath Hydrogen Test (91065); \$641 |

In violation of Title 18, United States Code, Sections 1347 and 2.

FORFEITURE
(18 U.S.C. § 982)

1. The allegations contained in Counts 1-10 of this Indictment are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant, **MICHELL GONZALEZ BENITEZ**, has an interest pursuant to the provisions of Title 18, United States Code, Section 982(a)(1) and 982(a)(7).

2. Pursuant to Title 18, United States Code, Section 982(a)(7) and 982(a)(1), upon conviction of **MICHELL GONZALEZ BENITEZ** for any of the offenses charged in this Indictment, the defendant shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense or any property real or personal which was involved in the offense or any property traceable to such property. Such forfeiture shall include, but not be limited to a money judgment in the amount of \$393,843.35, which represents the gross proceeds of the fraud.

3. If the property described above as being subject to forfeiture, as a result of any act or omission of **MICHELL GONZALEZ BENITEZ**,

(a) cannot be located upon the exercise of due diligence;

- (b) has been transferred or sold to or deposited with a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as made applicable through Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of **MICHELL GONZALEZ BENITEZ** up to the value of the above forfeitable property.

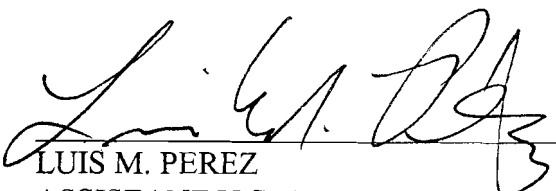
All pursuant to Title 18, United States Code, Sections 982(a)(1) and (a)(7) and the procedures set forth at Title 21, United States Code, Section 853, as made applicable through Title 18, United States Code, Section 982(b)(1).

A TRUE BILL

FOREPERSON - _____



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY



LUIS M. PEREZ
ASSISTANT U.S. ATTORNEY